

REPORT FROM: HEAD OF LEGAL SERVICES

TO: POLICY AND RESOURCES COMMITTEE

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REGULATION OF INVESTIGATORY POWERS ACT (RIPA) POLICY

PURPOSE OF REPORT

Notification of proposed amendments to the council's RIPA policy.

RECOMMENDATIONS

That the amended policy and the new social media policy are approved.

REASON FOR RECOMMENDATION

To take account of changes in the RIPA Codes of Practice

ISSUE

1. Since the council's RIPA policy was drafted in 2015, there have been revisions to the codes of practice which accompany the Act. These suggest that some amendment to the council's policy is therefore required. Councils' policies need to closely reflect those codes which originate with the Investigatory Powers Commissioner's Office (IPCO) (formerly the Office of Surveillance Commissioners). IPCO provides independent oversight and authorisation of the use of investigatory powers by intelligence agencies, police forces and other public authorities. IPCO's purpose is to oversee how these powers are used, taking account of the public interest and ensuring that investigations are conducted in accordance with the law.
2. It is worth remembering that, following a change in the law, from 1 November 2012 local authorities are required to obtain judicial approval prior to using covert techniques. In effect the council's power to authorise is really only a power to authorise an application to court for approval of surveillance. Even then it can only be in respect of the investigation of suspected criminal offences carrying at least a possible sentence of at least six months imprisonment. Given the restrictions of the RIPA regime therefore, authorisations are rare.

3. The relevant changes suggested here relate to the removal of references to urgent oral authorisations, the authorisation of renewals, completion of cancellations by applicants, allocation of unique reference numbers to each authorisation and a prohibition on corrective action forms. Attention also needs to be drawn to the retention and disposal of RIPA records in the context of the Data Protection Act and GDPR of 2018.
4. Additionally some definitions and relevant terms are explained in more detail as respects Covert Human Intelligence Sources and juveniles.
5. It is also now thought to be good practice to have a separate policy to address and govern the surveillance issues thrown up by the increased use of social media and that policy is presented for consideration here too.
6. The amended policy suggests reducing the number of officers who may authorise the uses of surveillance to just two; the Corporate Director and the Head of Legal Services. The reasoning behind the suggestion is to centralise the decision-making and thereby keep better control and track of the information generated by granting an authorisation. This will help the council to comply with the retention and disposal policies for that information as noted above.
7. Both authorising officers will undertake refresher training in early October.

IMPLICATIONS

Policy: This is an amendment to the council's existing policy.

Financial: None

Legal: These amendments will help the council to better comply with the law relating to surveillance.

Risk Management: Following the policies will reduce the risk of non-compliance with the law.

Health and Safety: None

Sustainability: None

Community Safety: Where evidence is gathered in accordance with the law then successful enforcement is more likely.

Equality and Diversity: None

APPENDICES

Amended draft RIPA Policy
Draft Social Media Policy

LIST OF BACKGROUND PAPERS